



THE CITY OF NEW YORK
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July 31, 2008

BY HAND

Honorable Victor Marrero
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8-1-08

Re: Perez, et al. v. City of New York, et al., 08 CV 4762 (VM)

Dear Judge Marrero:

I am an attorney in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, counsel for defendants City of New York and the New York City Police Department in the above-referenced action brought pursuant to 42 U.S.C. § 1983. For the reasons set forth below, defendants respectfully request that the time to respond to the complaint be extended by forty-five days from the current due date of August 11, 2008, to September 25, 2008. Plaintiffs' counsel has consented to this request for an enlargement of time.

The reason for this request is that defendant City of New York has just received from plaintiffs properly-executed authorizations for release of records pursuant to New York Criminal Procedure Law § 160.50. After conferring with plaintiffs' counsel, he has advised me that the releases were delayed because of his other work commitments and, in particular, his involvement in a complicated unrelated pending action. The parties agree that the releases are needed to access the underlying records, which we understand have been sealed, so that defendants can assess plaintiffs' allegations and respond to the complaint in keeping with their Rule 11 obligations. On that basis, defendants request that the Court allow them an additional forty-five days to access the records and to respond to the allegations of the complaint.

On May 21, 2008, plaintiffs brought this action alleging false arrest related to an incident that took place in the Bronx, New York, on or about August 25, 2007, and similar and derivative state law claims. Plaintiffs allege that they were questioned by two New York City police officers while painting a mural on a building with the permission of the owner and/or the manager. Plaintiffs further allege that several additional police officers arrived, and that they

were then arrested. Plaintiffs allege that they were transported to a precinct, and thereafter, to Bronx Central Booking, and were then released the following day after the District Attorney's office declined to prosecute. None of the officers have been identified as of yet, and defendants will need to access the underlying police records in order to identify the officers and to ascertain defendants' version of events.

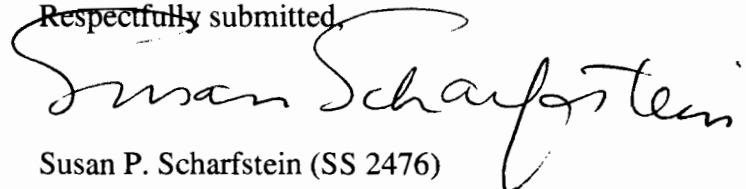
Counsel for the parties also agree that this case may be suitable for an early informal resolution, and plaintiffs have relayed an early settlement demand. Once defendants have accessed the necessary records, we can consider plaintiffs' demand and advise them of the City's position concerning settlement. The parties need some time in which to determine whether the case can be successfully resolved early and, possibly, in advance of the initial conference. If so, the parties wish to resolve the case without unnecessary expenditure of the time and resources of the Court or the parties.

On June 10, 2008, defendants made a previous request for an extension of time in which to respond to the complaint from June 11, 2008, to August 11, 2008. That request was made on consent and was granted by the Court. The principal reason for that request was to allow defendants time in which to access the underlying police records related to the incident alleged in the complaint, which we can now do since plaintiffs have now produced the releases.

For the reasons set forth above, we respectfully request that defendants' time to answer or otherwise respond to the complaint by an additional forty-five days to September 25, 2008, and that the initial conference be set for a date thereafter.

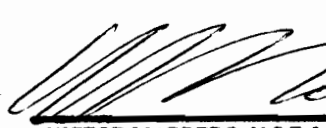
Thank you for your consideration herein.

Respectfully submitted,



Susan P. Scharfstein (SS 2476)

cc: Irving Cohen, Esq.
Attorney at Law
233 Broadway, Suite 2701
New York, NY 10279
(by hand)

Request GRANTED. The time for defendant(s) to answer or otherwise move with respect to the complaint in this action is extended to <u>9-25-08</u>	
SO ORDERED.	
<u>7-31-08</u> DATE	 VICTOR MARRERO, U.S.D.J.